



## COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

<b>COUNCIL MEMBERS</b>	<b>REDEVELOPMENT AGENCY</b>
Dennis Kennedy, Mayor	Dennis Kennedy, Chair
Greg Sellers, Mayor Pro Tempore	Greg Sellers, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Hedy Chang, Council Member	Hedy Chang, Agency Member
Steve Tate, Council Member	Steve Tate, Agency Member

**WEDNESDAY, SEPTEMBER 1, 2004**

**AGENDA**

**JOINT MEETING**

**CITY COUNCIL SPECIAL AND REGULAR MEETING**

**and**

**REDEVELOPMENT AGENCY SPECIAL MEETING**

**6:00 P.M.**

***A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions.***

---

**Dennis Kennedy, Mayor/Chairman**

**CALL TO ORDER**

(Mayor/Chairperson Kennedy)

**ROLL CALL ATTENDANCE**

(City Clerk/Agency Secretary Torrez)

**DECLARATION OF POSTING OF AGENDA**

**Per Government Code 54954.2**

(City Clerk/Agency Secretary Torrez)

**6:00 P.M.**

***City Council Action and Redevelopment Agency Action***

**CLOSED SESSION:**

**1.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority: Government Code Sections 54956.9(b) & (c)  
Number of Potential Cases: 4

**2.**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority: Government Code section 54956.9(a)  
Case Name: Klaver v. City of Morgan Hill  
Case Number: WCAB SJO 241834; San Jose Board  
Attendees: City Manager, City Attorney, Human Resources Director

**OPPORTUNITY FOR PUBLIC COMMENT**

**ADJOURN TO CLOSED SESSION**

**RECONVENE**

**CLOSED SESSION ANNOUNCEMENT**

**7:00 P.M.**

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

**CITY COUNCIL REPORT**

Council Member Tate

**CITY COUNCIL SUB-COMMITTEE REPORTS**

**CITY MANAGER'S REPORT**

**CITY ATTORNEY'S REPORT**

**OTHER REPORTS**

**PUBLIC COMMENT**

**NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.**

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME**

**THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND  
PRESENT IT TO THE CITY CLERK.**  
(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE  
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY  
COUNCIL/REDEVELOPMENT AGENCY.**

## ***City Council Action***

### **CONSENT CALENDAR:**

**ITEMS 1-14**                      The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

#### **Time Estimate**

#### **Page**

**Consent Calendar: 1 - 10 Minutes**

1.     **EXTENSION OF SUBDIVISION IMPROVEMENT AGREEMENT – ALCINI PARTNERSHIP** ..... 1  
**Recommended Action(s): Grant** Limited Amendment to Subdivision Improvement Agreement (Without Splitting of Bonds).
2.     **EXTENSION OF MILLER NETWORKS CONTRACT** ..... 17  
**Recommended Action(s): Authorize** the City Manager to Execute the Agreement, Subject to Review and Approval by City Attorney.
3.     **RESPONSE TO SANTA CLARA COUNTY GRAND JURY REPORT “INQUIRY INTO POLICE EVIDENCE ROOMS IN SANTA CLARA COUNTY”** ..... 21  
**Recommended Action(s): Direct** Staff to Provide the Responses Described in the Staff Report to the 2003-2004 Santa Clara County Grand Jury.
4.     **RESPONSE TO SANTA CLARA COUNTY GRAND JURY REPORT “INQUIRY INTO FINANCIAL AND PERFORMANCE AUDITS FOR THE COUNTY AND CITIES IN THE COUNTY”** ..... 35  
**Recommended Action(s): Direct** Staff to Provide the Proposed Response to the 2003-2004 Grand Jury Concerning Their Final Report “Inquiry into Financial and Performance Audits for the County and Cities in the County”.
5.     **FINAL MAP APPROVAL FOR VIALE (TRACT 9589)** ..... 49  
**Recommended Action(s):**  
  1. **Approve** the Final Map, Subdivision Agreement and Improvement Plans;
  2. **Authorize** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and
  3. **Authorize** the Recordation of the Map and the Subdivision Improvement Agreement following Recordation of the Development Improvement Agreement.

	<b>Time Estimate</b>	<b>Page</b>
	<b>Consent Calendar: 1 - 10 Minutes</b>	
6.	<b><u>FINAL MAP APPROVAL FOR CAPRIANO, PHASE II (TRACT 9617)</u></b> .....	61
	<b><u>Recommended Action(s):</u></b>	
	1. <b><u>Approve</u></b> the Final Map, Subdivision Agreement and Improvement Plans;	
	2. <b><u>Authorize</u></b> the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and	
	3. <b><u>Authorize</u></b> the Recordation of the Map and the Subdivision Improvement Agreement following Recordation of the Development Improvement Agreement.	
7.	<b><u>FINAL MAP APPROVAL FOR MISSION RANCH, PHASE VII (TRACT 9602)</u></b> .....	73
	<b><u>Recommended Action(s):</u></b>	
	1. <b><u>Approve</u></b> the Final Map, Subdivision Agreement and Improvement Plans;	
	2. <b><u>Authorize</u></b> the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and	
	3. <b><u>Authorize</u></b> the Recordation of the Map and the Subdivision Improvement Agreement following Recordation of the Development Improvement Agreement.	
8.	<b><u>AWARD OF PROFESSIONAL SERVICES CONTRACT TO PREPARE PROJECT STUDY REPORT/PROJECT REPORT (PSR/PR) FOR THE HIGHWAY 101/TENNANT AVENUE INTERCHANGE PROJECT</u></b> .....	85
	<b><u>Recommended Action(s):</u></b> <b><u>Authorize</u></b> the City Manager to Execute a Consultant Agreement with Mark Thomas & Company, Inc. for the Preparation of a Project Study Report/Project Report (PSR/PR), including all Environmental Studies and Geometric Alignments Necessary to begin the Process for the Highway 101/Tennant Avenue Interchange Project, Subject to Review and Approval by the City Attorney.	
9.	<b><u>PURCHASE OF PHOTOCOPIERS</u></b> .....	95
	<b><u>Recommended Action(s):</u></b>	
	1. <b><u>Authorize</u></b> the Purchase of Four New Copiers through Rabbit Office Automation, Subject to City Attorney Review and Approval of Contract;	
	2. <b><u>Declare</u></b> the Three Existing Copiers as Surplus, and Authorize Disposal by the Purchasing Officer; and	
	3. <b><u>Approve</u></b> \$8,947 in Additional Appropriations from the Public Facilities Non-AB1600 Fund, and \$24,341 in Additional Appropriations from General Fund Reserves.	
10.	<b><u>ADOPT ORDINANCE NO. 1690, NEW SERIES</u></b> .....	101
	<b><u>Recommended Action(s):</u></b> <b><u>Waive</u></b> the Reading, and <b><u>Adopt</u></b> Ordinance No. 1690, New Series, and <b><u>Declare</u></b> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: <b>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1660, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-12: PEET – LUPINE INVESTORS/BORELLO (APNS 728-34-002 &amp; -003).</b>	
11.	<b><u>ADOPT ORDINANCE NO. 1691, NEW SERIES</u></b> .....	113
	<b><u>Recommended Action(s):</u></b> <b><u>Waive</u></b> the Reading, and <b><u>Adopt</u></b> Ordinance No. 1691, New Series, and <b><u>Declare</u></b> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: <b>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1658, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DA-03-13 FOR APPLICATION MP 02-15: MISSION VIEW-MISSION RANCH TO ALLOW FOR THE INCORPORATION OF 22 SUPPLEMENTAL BUILDING ALLOCATIONS AWARDED IN THE 2003 RDCS COMPETITION. (APN 728-32-008 &amp; 009).</b>	

Time Estimate Page  
Consent Calendar: 1 - 10 Minutes

12.	<b><u>ADOPT ORDINANCE NO. 1692, NEW SERIES</u></b> .....	119
	<b><u>Recommended Action(s):</u></b> <b><u>Waive</u></b> the Reading, and <b><u>Adopt</u></b> Ordinance No. 1692, New Series, and <b><u>Declare</u></b> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: <b>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING TEXT AMENDMENTS TO CHAPTER 18.24 (CENTRAL COMMERCIAL/ RESIDENTIAL DISTRICT) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL. (ZA-04-04: CITY OF MORGAN HILL-TEXT AMENDMENT/CC-R).</b>	
13.	<b><u>ADOPT ORDINANCE NO. 1693, NEW SERIES</u></b> .....	129
	<b><u>Recommended Action(s):</u></b> <b><u>Waive</u></b> the Reading, and <b><u>Adopt</u></b> Ordinance No. 1693, New Series, and <b><u>Declare</u></b> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: <b>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 9.04.010(A) (Discharge-Permit Required-Fee) OF CHAPTER 9.04 (WEAPONS) AND ENACTING CHAPTER 9.06 (IMITATION WEAPONS) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING PROHIBITION OF IMITATION WEAPONS.</b>	
14.	<b><u>APPROVE SPECIAL CITY COUNCIL MEETING MINUTES FOR AUGUST 18, 2004</u></b> .....	135
15.	<b><u>APPROVE SPECIAL CITY COUNCIL MEETING MINUTES FOR AUGUST 25, 2004</u></b> .....	137
16.	<b><u>APPROVE SPECIAL CITY COUNCIL MEETING MINUTES FOR AUGUST 25, 2004 COYOTE VALLEY SPECIFIC PLAN WORKSHOP</u></b> .....	139

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

#### **ITEMS 17-18**

Time Estimate  
Consent Calendar: 1 - 10 Minutes

Page

17.	<b><u>APPROVE JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES FOR AUGUST 18, 2004</u></b> .....	141
18.	<b><u>APPROVE JOINT REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES FOR AUGUST 25, 2004</u></b> .....	173

## ***Redevelopment Agency Action***

### **CONSENT CALENDAR:**

#### **ITEM 19**

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	

- |     |   |     |
|-----|---|-----|
| 19. | <b><u>MORGAN HILL DOWNTOWN ASSOCIATION (MHDA) REQUEST FOR PROPERTY BASED IMPROVEMENT DISTRICT (PBID) FUNDING</u></b> .....  | 179 |
|     | <b><u>Recommended Action(s): Authorize</u></b> the Executive Director to Negotiate and Execute a Loan Agreement, Subject to Agency General Counsel Review and Approval, with the Morgan Hill Downtown Association (MHDA) in an Amount not to Exceed \$40,000 for Consulting Services Needed to Assist with the Formation of a Property Based Improvement District (PBID). |     |

## ***City Council Action***

### **PUBLIC HEARINGS:**

	Time Estimate	Page
--	---------------	------

- |     |           |   |     |
|-----|-----------|---|-----|
| 20. | 5 Minutes | <b><u>ZONING AMENDMENT, ZA-04-07: DIGITAL-VENTURE PROFESSIONAL CENTER</u></b> (Continued from 8/18/04)..... | 181 |
|     |           | Public Hearing Opened.  |     |
|     |           | Please Limit Your Remarks to 3 Minutes. Public Hearing Closed   |     |
|     |           | Council Discussion.   |     |
|     |           | Action- <b><u>Motion to Waive</u></b> the First and Second Reading of Ordinance.                            |     |
|     |           | Action- <b><u>Motion to Introduce</u></b> Ordinance by Title Only. (Roll Call Vote)                         |     |
| 21. | 5 Minutes | <b><u>ANNEXATION APPLICATION, ANX-03-02: DEWITT-MARRAD</u></b> .....  | 189 |
|     |           | Public Hearing Opened.  |     |
|     |           | Please Limit Your Remarks to 3 Minutes. Public Hearing Closed   |     |
|     |           | Council Discussion.   |     |
|     |           | Action- <b><u>Adopt</u></b> Resolution Approving Annexation.  |     |

## ***City Council Action***

### **OTHER BUSINESS:**

	Time Estimate	Page
--	---------------	------

- |     |            |  |     |
|-----|------------|--|-----|
| 22. | 10 Minutes | <b><u>WATER CONSERVATION PLANNING ACTIVITIES</u></b> .....   | 203 |
|     |            | <b><u>Recommended Action(s): Provide</u></b> Direction to Staff.   |     |
| 23. | 10 Minutes | <b><u>REPORT OF THE LEGISLATIVE SUBCOMMITTEE</u></b> .....   | 207 |
|     |            | <b><u>Recommended Action(s): Consider</u></b> a Report and Recommendations of the Council's Legislative Subcommittee which will be Presented at the Council Meeting. |     |

## ***City Council and Redevelopment Agency Action***

### **OTHER BUSINESS:**

	<b>Time Estimate</b>		<b>Page</b>
24.	5 Minutes	<b><u>REVIEW OF CITY COUNCIL AND REDEVELOPMENT AGENCY'S NOVEMBER, DECEMBER, AND JANUARY MEETING SCHEDULE</u></b> ..... <b><u>Recommended Action(s): Discussion</u></b> and <b><u>Direction</u></b> Regarding the November, December and January Meeting Schedule.	209

### **FUTURE COUNCIL-INITIATED AGENDA ITEMS:**

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

### **ADJOURNMENT**